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CHURCH AND STATE IN MEDIAEVAL GERMANY. I

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History affords few more striking examples of revolutionary change than the contrast between the relations of the German crown, the German church, and the papacy in Saxon (919-1024) and Franconian (1024-1125) times. Under the Saxon emperors the church was the friend and ally of the dynasty. This good relation became somewhat strained under Conrad II and Henry III, the first Franconians, and under the last two Franconian rulers, Henry IV and Henry V, the German church in large part, and the papacy wholly, were the implacable foe of the emperors and strove with might and main to compass the destruction of the German crown.

The conflict between Henry IV and Gregory VII has usually been portrayed with the dramatic grandeur of a Greek tragedy. Dramatic qualities and dramatic personalities that struggle certainly possessed. But in general its history has been pitched upon too sublimated a plane. The character of Hildebrand is one of the most complex and difficult to understand in all history. He was at once a superlative idealist imbued with the Augustinian dream of a world-church supreme over a world-state, and a shrewd politician. Such a man is rarely always consistent in his conduct. Depending upon mood or circumstance he sometimes responds to one motive or stimulus, sometimes to another. It is the endeavor of this article to show that a primary, if not really the principal, issue in the struggle between Gregory VII and Henry IV was an economic one; that the immediate and fundamental, though carefully concealed, purpose of the papacy was to acquire complete proprietary control of the German church (indeed the church throughout all Europe); and that the Cluny reform was sedulously propagated as a means to that end. Karl Wilhelm Nitzsch (1818-80) in his

Geschichte des deutschen Volkes was the first who discerned this factor in the war of investiture.¹ Since his death other scholars, in many monographs, have widened the field which he first tilled, and the enormous influence of the proprietary interests of the German church upon the history of the mediaeval empire has been abundantly demonstrated.²

One of the most certain achievements of modern historical research is the proof which precludes denial of the interrelation of all the facts and forces of an epoch. The war of investiture cannot be rightly understood except in the light of the economic and social history of Germany in the tenth and eleventh centuries.³ The root

¹ Vol. II, 15; cf. Inama-Sternegg, *DWG*, II, 135.

² See my article on "The German Church and the Conversion of the Baltic Slavs" in *American Journal of Theology*, April and July, 1916. Harnack, *History of Dogma*, V, 7, has suggestively said, "The task of administering property was more important to the German church than the political and dogmatic debates of the neighboring French hierarchy." So again, *ibid.*, VI, 16, he says, "It was about the property of the bishops and . . . who was the true ruler of the divine state that the great battle was really waged between the empire and the reformed papacy."

Ficker first clearly formulated the idea that the war of investiture was primarily one for control of the church's proprietary power (*ein Eigentumsrecht*)—"Ueber das Eigenthum des Reiches am Reichskirchengute," *Sitzungsberichte der philosoph.-histor. Klasse der kaiserl. Akad. d. Wissenschaften*, LXXII (1872), 55-146, 381-450. To this article Waitz replied the next year in the same journal (1873), p. 825, admitting the presence of proprietary elements in the struggle between emperor and pope, but contending that Ficker exaggerated its importance. Cf. Waitz, *Deutscheverfassungsgesch.*, VII, 199, n. 1. Since these epoch-making articles a large amount of supplementary work has been done by more recent scholars, which, it seems to me, bears out Ficker's contention, as Matthäi, *Die Klosterpolitik Kaiser Heinrich II* (Göttingen diss., 1877); Stutz, *Die Eigenkirche als Element des mittelalterlich-german. Kirchenrechts* (Berlin, 1895); and his *Gesch. des kirchlichen Beneficialwesens* (1895) and article entitled "Lehen und Pfründe" in *Zeitschrift der Savignystiftung für Rechtsgesch.* XXXIII, N.F., 20 (1899), 213-47; Hauck, *Kirchengesch. Deutschlands* (1887 f.), III (1905), 441 ff.; Werminghoff, *Gesch. der Kirchenverfassung Deutschlands im Mittelalter* (Leipzig, 1905), 179 ff.; Feierabend, *Die politische Stellung der deutschen Reichsabteien während des Investiturstreites* (Breslau diss., 1913); Voigt, *Die Klosterpolitik der Salischen Kaiser und Könige mit besonderer Berücksichtigung Heinrich IV bis zum Jahre 1077* (Leipzig diss., 1888); Koeniger, *Burchard I von Worms* (1905), c. 4. Waitz's great work, Vol. VII, c. 2, *Die hohe Geistlichkeit*, is invaluable for the wealth of references to sources. For the "royal" abbeys, see *ibid.*, III, 434-35; IV, 153-57.

³ In the last work from his pen before the war, *Belgian Democracy*, 30, note (English trans.), Professor Henri Pirenne has written, "There is here, i.e., in economic history, a whole group of phenomena in general too little heeded by the students of this great conflict."

of the problem between church and state in the Middle Ages, and the chief root of the evil in the church, was its immense landed wealth. Between the alternative of renouncing her feudal revenues, her temporalities, her privileges, her political power, and so seeking deliverance from secular control, and the alternative of keeping her temporalities and yet securing freedom from the authority of the state by crushing the state, the church did not hesitate. She chose the latter course, and the identification of the Cluny reform with the papal power by Hildebrand went far toward making the aspiration a reality.

The supreme test of the church's sincerity was made in 1111, when Pascal II offered to buy the church's freedom from lay investiture at the price of renunciation of the church's temporalities and secular power. At once a storm of protest arose. Like the rich young man who came to Jesus [Matt. 19:16-22], the church had too great possessions to make the sacrifice. Its idealization of poverty was belied by its avarice. A few rare spirits like Arnold of Brescia daringly advocated the true remedy and expiated at the stake the zeal of the reformer born out of due season. The greatest spirits of the Middle Ages, like St. Francis, Dante, Pierre Du Bois, Nicholas de Clamanges, for example, deplored the church's choice. But few churchmen and never any pope save Pascal II had the courage to advocate the true solution of the church's corruption. The argument and the protest of the church of Liège, at the height of the strife over lay investiture, fell upon deaf ears.¹

The beginning of the material contamination of the church is coeval with the official establishment of Christianity by Constantine. The rapid narrowing of the line between the church and the world during the fourth century, owing to the enormous increase in the number and amount of the church's endowments, chiefly in the form of gifts of land, is an amazing fact. The process was accentuated and accelerated in the fifth century when the church, having converted the city populace of the Roman Empire, began

¹ In justifying itself against the threats of Pascal II the church of Liège quoted St. Ambrose with telling force, "Si Christus non habuit imaginem Caesaris, cur dedit census? Non de suo dedit: sed reddidit mundo quae erant mundi. Et tu, si non vis esse obnoxius Caesari, noli habere quae mundi sunt. Sed si habes divitias, obnoxius es Caesari. Si vis nihil debere regi terreno, dimitte omnia et sequere Christum."—Udalr. Babenb., Cod. Lib., II, c. 234.

to reach out into the country areas and to establish the first rural parishes. Thereby the church became profoundly involved in the feudal régime, for long since free landed proprietorship had disappeared in the Roman Empire. Millions of serfs and slaves in Italy, Gaul, Spain, Africa, lived bound to the soil upon the huge patrimonies of the nobles, who formed a landed aristocracy powerful enough to defy the imperial government.

The evangelization of the fields was largely due to the initiative of, and much under the control of, these great proprietors. For the creation of rural parishes independent of the landed nobles and subject only to the authority of the bishop was very difficult and usually impossible. The rights of the bishop over these seigneurial or manorial churches were very limited. The proprietor, having borne all the expense of foundation, claimed the right to choose the incumbent. The rural church was the property of the founder.¹ The council of Orleans (ch. 33), as early as 541, formally recognized the proprietary right of patronage in the case of rural churches, and the curé came to be regarded as a petty feudatory of the lord. In every parish a body of church property was gradually formed by gift and testament of which the lord of the manor had control, and a series of customary services developed which he could exact.²

A proprietor's motives in founding a church were often far from disinterested or pious. For

ever since the Germanic invasions there had been few more profitable investments than the building of a church. The proprietor who built a church or a

¹ For the origins of church patronage see the article in *Dictionary of Christian Antiquities*, II, col. 1545, by Hatch, and his *Organization of the Early Christian Church*, 200-205 (the notes are very valuable); P. Thomas, *Le droit de propriété, des laïques sur les Eglises . . . en Moyen Age* (1896); Lesne, *La propriété eccles. en France I*, 49-69; Marignan, *La société mérovingienne*, 200-206; 'Imbart de la Tour,' *La paroisse rurale*. The synod of Worms in 453 required every church to have at least one free allotment (*Hufe*), and every bishop one hundred Hefe (*Conciliengesch.*, IV, 543; Gerdes, *Gesch. d. deutsch. Volkes*, I, 532; Koeniger, *Burchard von Worms*, 44, n. 1). Charlemagne's *Cap. de partibus Saxoniae*, c. 15, ordained a house and two manors of land for every priest, "and for each 120 men, noble and free, and likewise *liti*, let them give to the same church a man-servant and a maid-servant," *MGH, LL*, sec. 2, Tome I, Part I, p. 68, No. 26, ed. Boretius. For commentary see Waitz, III (2d ed.), 207 f.

² The principal sources for this condition are *Cap. of Frankfort*, 794, c. 54; *MGH, CONC.* II, 171; *Cap. eccles. ad Salz.*, 803, c. 13, *ibid.*, 119; *Cap. eccles.*, 818, *MGH, CAPIT.* i, 275.

chapel upon his land owned that church or chapel. He could put a slave or villein into the benefice. He could charge burial fees and christening fees. He could force his villeins to attend. He could sell or otherwise alienate the church. He could dismiss the priest, or flog him, or make him pay gifts upon his appointment. He could use him as a secretary, or a bailiff, or farm servant. He could make him wait at table, or tend dogs, or lead a lady's horse, or watch sheep.¹

In a word, the lord of the manor in whose hands lay the right of presentation to the living could treat the incumbent, who not infrequently was the son of one of his own serfs, with impunity. Jonas of Orleans in the ninth century complained that "poor priests" were compelled to serve as varlets.² Agobard of Lyons echoed the complaint, citing instances of priests attached to oratories being compelled to wait at table, to trim vines, to take care of dogs, to dress ladies' hair, etc.³ The council of Metz in 888 complained of a priest having been mutilated by his patron because the priest had had the courage to reprimand him for his immorality.⁴

Even in Britain, in spite of the relatively late entrance of Christianity there, the feudalization of the church early and rapidly obtained. A letter of Bede to Archbishop Egbert protests against the ill-considered donations made by the Anglo-Saxon kings to whoever wanted to establish a monastery, of which the founders made themselves "lay" abbots.⁵

Given the prevalent feudal conditions and ideas, it was inevitable that in course of time the practice of patronage should be extended upward in the church and at last involve the hierarchy too. The combination of landed wealth and political power possessed by the bishops and abbots in the Frankish church made control of their offices by the Merovingian kings a necessity of state. It is no matter of surprise that the council of Orleans (ch. 5) was forced to acknowledge that the high clergy held their lands of the crown.

¹ Fisher, *The Mediaeval Empire*, I, 254.

² D'Achery, *Spicilegium*, I, 112.

³ Thomas, *Anc. et nouv. discipl. de l'église* (ed. 1725), II, 322; Le Provost, *L'Eglise et les Campagnes au moyen-âge*, 34.

⁴ Mansi, *Concilia*, IX, 415.

⁵ Bedae, *Opera historica* (ed. Plummer), I, 414-15.

Bishoprics and abbeys in law and in fact were lordships like lay seigneuries and subject to almost identical laws and practices.

By the eighth century the conditions and obligations governing landed proprietorship, whether lay or clerical, had become conventionalized, and, with the transformation of land ownership into benefices in the time of Karl Martel, the church, like secular society, passed completely into the feudal régime. Such a state of things for the church was perfectly adapted both to the ideas and to the practices of a feudal age. There was nothing incongruous or unseemly in the arrangement, however strange it may seem to us today, when fighting abbots and the blazon of episcopacy have vanished. Like every other institution the system was capable of great abuse, and it gave rise to grievous conditions within the church. But we must free our minds from preconceived notions and avoid judging the mediaeval church by modern conditions. The church was a historical institution, a part of the organic, human life of the mediaeval epoch. As it functioned in that society it must be studied and judged. Because in its best moments the church taught a quality of life and cherished an ideal above the world, that did not separate it from the world. To have been less human than it was, the mediaeval church would have had to function in a vacuum or lived in a world of the fourth dimension.

The legislation of Pepin and Charlemagne was particularly instrumental in combining the church with the state. Pepin introduced the bishops into the national Frankish assembly (Marchfeld, Champ de Mars) not only as proprietors but as prelates, in order to counterbalance the power of the lay feudality. Henceforth the councils inclined to supersede the former national assemblies, and civil and ecclesiastical legislation tended to fuse together.¹ It was even within the prerogative of the king to fix dogma (both

¹ Nitzsch, *Gesch. d. deutschen Volkes*, I, 249; Viollet, *Inst. polit. de la France*, I, 356-571; Lesne, 424-38. In 755 the Marchfeld was changed to May in order that there might be more pasturage for the horses of those attending (Schröder, *Rechtsgesch.*, 155). The councils of the church ceased to be purely ecclesiastical bodies, but performed a large amount of civil legislation. See Harzheim, *Concilii Germaniae*, III, 187. Fisher, II, 92, gives some interesting examples of this fusion of secular and ecclesiastical affairs. "Every bishop and abbot governs his territory by the aid of a little parliament of nobles and ministeriales."

Childebert and Charlemagne did so), and from Pepin's time forward the state required the *credo* and the *pater noster* as law, and legislated in its capitularies upon the things of the church as well as upon secular matters. All matters relative to the Frankish church were done in the name of the temporal power.

Charlemagne treated the bishops and abbots of his empire exactly as he treated secular dignitaries and was as cautious in dispensing favors to them as he was to the great lay nobles.

He would never give more than one county to any of his counts unless they happened to live on the borders or marches of the barbarians; nor would he ever give a bishop any abbey or church that was in the royal gift unless there were very special reasons for so doing. When his counsellors or friends asked him the reason for doing this, he would answer: "With that revenue or that estate, with that abbey or that church I can secure the fidelity of some vassal, as good a man as any bishop or count, and perhaps better."¹

After Charlemagne everything melted away. The political system established by him was impotent before the power of the revolutionary forces of the time. In the tumultuous laboratory of the ninth century the old order of things was broken up and a new civilization came out of the crucible. Feudalism emerged as a complete political, economic, and social polity, and the feudal states of France, Germany, and Italy came into being.² In the anarchy of the times the lands of bishops and abbots were given by the rulers to dukes and counts as the price of their military service, or were seized by the latter and more or less assimilated with their own feudal holdings.³

¹ Monachus S. Galli, *De vita Caroli*, I, c. 13. Guilhaume, *L'origine de la noblesse en France au moyen-âge*, 126, n. 5, has amassed the evidence to illustrate the Carolingian handling of church offices for political purposes. All abbeys were in the gift of the crown. "Abbatibus quoque et laicis specialiter jukemus ut in monasteriis quae *ex nostra largitate* habeat," etc. (Cap. Lud. Pii, 823, c. 8).

² On the nature and significance of the dissolution of the Carolingian empire see Bourgeois, *Le capitulaire de Kiersey*, espec. 271-83; Prou, *De ordine palatii*, Introd.; Ellendorf, *Die Karolinger und die Hierarchie*; Lavis, *Histoire de France*, II, Part I, Book 3, and bibliographies there given.

³ Lesne, *La propriété eccles. en France*, I, 439-52; Waitz, IV, 165-73; Parisot, *Royaume de Lorraine sous les Carolingiens*, 31, n. 5; 81, notes, 185, 331, 687; Poupardin, *Royaume de Provence sous les Carolingiens*, 337, n. 6; 373-76, 384; Kurth, *Notger de Liège*, 28; Pirenne, *Hist. de Belgique*, I, 39-41. Pope Nicholas I approved the diversion of abbey revenues for the support of Queen Teutberge of Lorraine-Parisot, 308. Charles the Bald sold the abbey of St. Bertin for thirty gold pieces (*ibid.*, 358).

With the break-up of the Carolingian empire in the ninth century, the relations of state and church began to be reversed. Hitherto the state had controlled the church. Now the church began to control the state. The amalgamation of church and state became more complete than before,¹ and the church saw to it that it was well repaid for its services to the government. By the end of the ninth century the dilapidation of the royal domain, owing to lavish, gratuitous, or forced donations to the church, seriously impoverished the monarchy. It is true that few of them were outright grants. Most of them were in the form of benefices which, at least theoretically, reserved for the crown the right to exact feudal service of the holders thereof. But a crown so weak that it was unable to refuse the demands of the church for more land was too weak to enforce the actual terms of the grant.

The church, however, was not long in discovering that a peril was attached to this rapid acquisition of landed wealth, which, like the shirt of Nessus, was destined to poison the wearer. For its increasing proprietorship entangled the church more and more in the coil of feudalism. The rivalry between the high clergy and the great lay feudality for possession of the crown lands was intense, and the church, in order to sate the land hunger of the feudal nobles, was often compelled to effect an accommodation with them by enfiefing its lands to them. In an age of blood and iron such an arrangement was frequently of mutual advantage. The bishop or abbot did not give nor the baron get something for nothing. The baron might have bullied the bishop into making the enfiefment, but he was subject to the feudal contract which always required the rendering of military service by the vassal to the suzerain. Thus originated that class of *milites ecclesiae* which played so great a part in the period of the crusades; thus the church entered more deeply than ever into the feudal polity. The art of war was not long in becoming an important episcopal accomplishment. The fighting bishop, helmed and hauberked, was a development of the late ninth century.

¹ On this process see Lea, *Studies in church history*, 326-42; Viollet, I, 370-71; Prou, *De ordine palatii*, Introd.; Ellendorf, *Die Karolinger und die Hierarchie*, II, c. 4; Bourgeois, *Capitulaire de Kiersey*, 271-83.

But it was impossible for any government with a remnant of self-respect to let the church wholly escape from secular control without a struggle, and the kings of the ninth century, weak as they were, had recourse to an expedient which in part recouped their waning material fortune and partially compensated them for the compulsory alienation of their domains to the church. This was the institution of the "advocate" (French *avoue*, German *Vogt*) an outgrowth of the highly feudalized organization of society. The office, in its narrower functions, was almost as old as the church's landed proprietorship. The advocate represented his ecclesiastical superior in the administration of the purely secular affairs which fell to the bishop or the abbot to perform in pursuance of his double rôle of an ecclesiastic and a landed proprietor. He pleaded the causes of the bishop or abbot in the courts of the count or suzerain; he administered justice in their name among the church's vassals; he represented his principal in the judicial duel, participation in which was forbidden to ecclesiastics; he presided over cases of trial by battle between the bishop's or abbot's vassals, and, most important of all, he commanded the *milites ecclesiae* when the church was called upon to do military service.

In the anarchy of the ninth century, when the monasteries began to wall their houses,¹ the office of advocate acquired great extension. Protection was the crying need of the time. Often, though, the bishop or abbot had no choice in selecting the incumbent. The post was eagerly coveted by the lay feudality, since it

¹ "Tunc quoque domus ecclesiarum per Gallias universas, preter quas municipia civitatum vel castrorum servarunt" (Rod. Glaber [ed. Prou], I, c. 5, sec. 9). For the effect of the Norse invasions in the ninth century and the anarchy of the tenth upon the walling of monasteries, villages, towns, granges, and the erection of castles, first of wood (block houses), later of stone, see Favre, *Eudes, roi de France*, 220-21; Lavissee, *Hist. de France*, II, Part 2, 14-16 (bib.); Flach, *Les Origines de l'ancienne France*, II, 312-27, 329-42; Waitz, IV, 629; Parisot, 55, n. 2, 458, n. 4, 461, 499; Poupardin, 337, n. 6; Fagniez, *Documents relatifs à l'histoire du commerce . . . de la France*, I, Introd. xli; Lefranc, *Hist. de Noyon*, 12-14; Mortet, *Recueil de Textes relatifs à l'histoire de l'Architecture*, Introd. xlii-lii. Cf. also the index under the words *donjons*, *mottes de donjons*, *tours*, *maisons fortes*, *fermes*, *palissades*. In Germany Henry the Fowler was the first to require monasteries and nunneries to be inclosed—Sommerlad, II, 234-35; Nitzsch, I, 288. For these constructions, and Henry I's castella, see my article on "German East Colonization" in *Proceedings of American Historical Association*, 1915.

gave the holder control of certain ecclesiastical revenues and the use of certain church vassals for military purposes. As a consequence, in practice the bishop or abbot had frequently to appease the greed of a neighboring noble by purchasing his protection, for otherwise his lands were liable to be pillaged by the noble. Under this form of blackmail the remedy became worse than the disease.¹ The Capetian kings of France made themselves "lay" abbots of half a dozen of the richest abbeys in France.² The counts of Flanders so built up their power.³ In Germany the practice was carried to an extreme by Frederick Barbarossa, whose Italian campaigns were largely fought with church vassals.⁴

Under these conditions the hierarchy tended more and more to become a military caste like the feudality. Bishops and abbots became dukes and counts. Miter and mace, crosier and coat of mail, became interchangeable insignia of the high clergy, who increasingly were recruited from among the powerful families of the feudal noblesse, which put cadets of the house in church preferments, so that bishoprics and abbeys often became dependencies of the feudality. Bishops and abbots became centers of feudo-territorial groups, exercising a temporal sovereignty analogous

¹ On the institution of the advocate see Waitz, IV, 409 f.; Brunner, *Rechtsgesch.*, II, 320 f.; Bethmann-Hollweg, *Civilprozess*, III, 161 f.; Pischek, *Die Vogtei in den geistlichen Stiftern des fränkischen Reiches* (1886); Hauck, II, 598 f.; Sackur, I, 29 f.; Flach, *Les Origines de l'anc France*, I, 437-44; Viollet, *Inst. pol. de la France*, 372-74; Senn, *L'institution des avoueries eccles. en France* (1903); *L'institution des vidames en France* (1907); Heilmann, *Die Klostervogtei im rechtsrheinischen Teil der Diözese Konstanz bis zur Mitte des 13. Jahrhunderts* (1908); Otto Lerche, *Die Privilegierung der deutschen Kirche durch Papsturkunden bis auf Gregor VII* (Göttingen, 1910), 29-32; Blumenstock, *Der päpstliche Schutz im Mittelalter* (1890); Hüfner, "Das Rechtsinstitut der klösterlichen Exemption in der abendländischen Kirche-Archiv für kath." *Kirchenrecht*, LXXXVI (1906), 302 f.; Walter Kraaz, *Die päpstliche Politik in Verfassungs- und Vermögensfragen deutscher Klöster* (Leipzig diss., 1902); Viollet, *Inst. polit. de la France*, I, 372-73; Gerdes, *Gesch. des deutschen Volkes*, I, 539-40. Much other literature in Holtzmann, *Französische Verfassungsgesch.*, 138, and Luchaire, *Manuel des institutions francaises*, secs. 153-55. For a desperate instance, Richer, *Gesta eccles. Senon*, I, 17 (*MGH*, SS. XXV). Fisher, I, 319, has a vivid account of the practical working of the advocate's office.

² Luchaire, *Institutions monarchiques*, II, 87-88.

³ Pirenne, *Histoire de Belgique*, I, 90-91.

⁴ Fisher, II, 74-75.

to the powers they had long practiced within their ancient immunities. In the name of churches and monasteries they granted fiefs, ruled vassals, distributed tenures, and governed serfs. Side by side with the secular feudatories grew up an ecclesiastical nobility composed of archbishops and bishops, who were at the same time dukes or counts, and cathedral chapters and abbeys which as corporations controlled immense territorial possessions. From all sides the weak had recourse to the church's stronger protection, offering it their persons and their property. Its tribunals were often preferred to the secular courts of the lay lords, and the church's sway was not only exercised over all ecclesiastical matters, but extended jurisdiction over a host of civil and criminal affairs which primarily were of secular origin and incidence. Gradually the practice of infeudation penetrated the whole body of ecclesiastical offices and functions. The church's lands, offices, altars, prebends, tithes, became feudalized.¹

But neither in Germany nor in France did the king's ecclesiastical sovereignty, conveyed in the term *regale*, become so mutilated and dispersed as his political authority. Some remnants of the complete supremacy over the church, formerly enjoyed by the Carolingian monarchy, still remained in the great fiefs, which otherwise had escaped the crown's control. In these areas the vassals and revenues of the church were regarded as part of the military and fiscal resources of the crown and used by the king at his discretion. The bishop or abbot (if the abbey were "royal") was as much the choice of the king as a local priest was the creature of his lord, and the conduct of the hierarchy was assimilated to the condition, if not the status, of the secular feudatories. Bishops and abbots were held to the performance of *auxilia* in the same way and to as great—or even greater—a degree as dukes and counts.

The domain of a bishop or abbot in the Middle Ages was rarely, if ever, a compact, contiguous area. On the contrary it was composed of a vast ensemble or complex of scattered parcels which had been acquired by gift or purchase during years of time, and was

¹ Koeniger, *Burchard I von Worms*, 48-52. For France, see Viollet, I, 416-17; and Lesne, 131-42.

therefore widely located.¹ The unity of the whole was not a physical but a moral one. The bishop or abbot was the proprietor thereof, whose legal position was guaranteed by the immunity which exempted him from any lay jurisdiction or authority save that of the king. Unless feudal usurpation had canceled the theory of the law, no duke nor count could enter within this circumscription, which, in spite of the agglomerated nature of the lands, nevertheless formed a closed circle. Within and on his own lands a bishop or abbot was a royal official.²

Both in law and in practice these ecclesiastical lands were regarded as a particular kind of barony or fief which the incumbents held immediately of the king as overlord. This was the view of the church as well as of the state, and neither party looked upon the relation as either incongruous or unusual. Vacant sees and vacant abbeys were treated as knight's fees. After the analogy of lay fiefs the king attached the incomes of ecclesiastical office in the interval between two occupations; the new appointee paid what answered to a "relief" in the secular world in order to qualify for the office; the lands and offices of the church were let to farm, enfeifed, or sold exactly as in the case of secular property.

It is important to appreciate how closely state and church were united in the Middle Ages. The church, not content with regulating faith and morals, actively mingled in politics, inspiring the kings to perform most of the legislative work which they did, and securing the kings' support and defense of their spiritual and temporal interests. As a consequence, however, of this intimate relation the church paid by loss of liberty for the influence and riches which it enjoyed.

In principle the clergy and people preserved the right of electing the bishop. But it was necessary to have the authorization of

¹ For example, Corvei had lands in Lorraine, the archbishopric of Magdeburg owned lands in Deventer (Gerdes I, 536). Outside of Metz proper the bishop had estate in Epinal, Moyon, Marsal, Vic, Habondage, Rambervillers, Conflans, Varnesberg, Radonville, St. Trond, etc. (Klipfel, *Metz, cité épiscopale et impériale* [1866], 26). The archbishop of Rheims, though a French subject, owned lands in Lorraine (Parisot, *Le royaume de Lorraine sous les Carolingiens*, 37, n. 4; 176, n. 3). For large treatment of this subject see Lesne, Books 3-5.

² Koeniger, 52-53; Kurth, 16; Pirenne, I, 127-30.

the crown in order to exercise the right, and the king might refuse to permit it or might appoint the incumbent himself. Sometimes he outwardly respected the forms, permitting election, but taking care in advance to designate the candidate of his choice. When election had taken place secular confirmation still remained, and only after this formality had been complied with could the metropolitan instal the new bishop.

No bishop could qualify without the consent of the king. Formal approval was absolutely necessary unless the throne were vacant at the time of election of the bishop. Often the election was a mere formality. Usually the local church authorities and the people placidly accepted the king's choice, for it was desirable that the bishop stand well at court.

In the episcopate heredity could not obtain as in civil functions. But the influence of the feudal tendency toward hereditability of offices was shown in the church also, where nepotism was a common evil. The passage of a vacated see from uncle to nephew was common. Thus, while on the one hand the sovereigns endeavored to keep the bishoprics and the bishops under their control, on the other the prelates themselves were disposed, like all the feudality, to make themselves as independent as possible of any exterior authority. This tendency was all the more pronounced because many of the bishops were of noble families. It is a fair statement that the feudality everywhere in Europe predominantly filled the offices of the hierarchy.

Abbeys no less than bishoprics were dependencies of the crown or of the feudality. Certain of them which had been founded by one of the Merovingian or Carolingian princes, and in general all those monasteries which had been taken under the king's protection, were denominated "royal" abbeys. These belonged completely to the king, who disposed of their revenues as he pleased. Theoretically the abbot was chosen by the monks, as the bishop was chosen by clergy and people. But few abbeys preserved the right of local self-government. If the king were complacent he might approve the selection of the monks. Frequently he brusquely filled the office, even riding down former privileges and immunities. Many abbeys, deprived of liberty by the kings, were united to a

bishopric¹ or another monastery; or, more unfortunate still, fell into the hands of the feudal aristocracy, who usually handled them without any reminiscence of their religious character.

Just as the laity early discovered that it was often a lucrative thing to found monasteries, so did the bishops. Many abbeys were "episcopal" abbeys, having been originally founded by a bishop who controlled them and disposed of their revenues (which arose from the enrichment of the monastery by pious benefactions) as he pleased, exactly as the king did in the case of "royal" abbeys. This condition was particularly common in Lorraine and Swabia, where ecclesiastical feudalism had progressed farther than elsewhere in Germany. Here Cornelimünster and Werden belonged to Cologne; Prüm to Trier; Remiremont to Toul; Saint Stephen, Andlau, Erstein, Honau, and Hohenburg to Strasburg; Münster and Murbach to Basel. A monastery might depend upon a bishopric whether it was within or without the diocese to which it was attached; it might depend upon another monastery; it might depend upon the king or some other lord, even a foreign sovereign or noble; and finally it might depend immediately upon the pope. Abbeys created by laymen were the hereditary property of the founders' descendants, and their revenues formed part of his estate.

Archbishops, bishops, abbots, constituted a body of government officials like the counts, for they were servants of the state as well as of the church. In virtue of immunities which may have been granted them, many bishops and abbots had the powers of a count within the domains of their church. They were constrained to some sort of personal service to the king, as to attend assemblies, to go on missions, to act as ambassadors to Rome or to a foreign court. Under the form of "gifts" they were required to make certain contributions to the king's needs, apart from the revenues proper of the bishopric or monastery.

We know more about the political and military obligations of bishops and abbots than about their financial relations to the secular government. As great landed proprietors, in a time when military service was everywhere in Europe dependent upon landed possession, the clergy naturally, as the greatest of such proprietors, were

¹ Parisot, 332, note.

called upon for service of themselves and their vassals, i.e., those who held church lands in fief.¹

Bishops and abbots had also to aid the king with their counsel like ordinary vassals. Sometimes they sat in general assemblies with the nobles, sometimes in particular ecclesiastical assemblies, as synods and councils. Here too the authority of the king over the church is manifest. For until the Gregorian reform synods could not convene without royal consent.

We have seen that the high clergy was largely recruited from the nobility. Nevertheless in spite of identical origin, rivalry and even bitter hostility existed between the nobility and the clergy, the former usually being extremely jealous of the landed wealth and exemptions which the clergy enjoyed. In consequence private war accompanied by spoliation of lands and destruction of crops, the driving away of the peasantry, etc., were common features of everyday life; even the kings sometimes despoiled rich ecclesiastics. Yet generally royalty and the hierarchy got along fairly well together. The nobles menaced both the church and the crown, and common interest forced crown and clergy to co-operate.

Ideally the relation of church and state in the Middle Ages, at least before the Gregorian formulation of the dictum of church supremacy obtained, was one of mutual accommodation. But the relation was capable of great abuse by either party. Neither party was wholly innocent or wholly guilty, and no complete determination of relative responsibility can be made. But one fact is clear: the root of the whole mediaeval controversy between church and state, the fundamental source of friction, the real bone of contention, was the church's land. If the church had been less secular and more spiritual, if it had been willing to resign, or at least largely to abridge, its temporalities and material possessions, if it had been less devoted to the "royalty of Peter" and the Petrine supremacy and more devoted to the teaching of Jesus that his kingdom was not of this world, the issue between church and state would probably never have got beyond the limits of doctrinaire discussion.

¹ The two completest documents which have to do with this subject in Germany are the *Notitia de servitio monasteriorum*, which dates from Louis the Pious, and the *Numeri loricarum a principibus partim mittendorum, partim ducendorum* [Jaffé, V, 471-72] of the reign of Otto II.

The land hunger of the church—the most pronounced form of avarice in a day when land was almost the sole source of the production of wealth, the only form of capital, the strongest basis of material power—is a fact calculated to appal and dismay one accustomed to interpret religion in spiritual terms.

Even in the eighth century the enormous monopoly of land enjoyed by the church had become a menace to the government and a prejudice to society.¹ Charlemagne complained that gifts to the church were so frequent that freemen were reduced to poverty and compelled to take to a life of crime.² “In 817 Louis the Pious was obliged to legislate to prevent clerks from taking gifts which might disinherit the children or near relations of the giver, and the enactment was re-enacted by Lewis II in 875.”³

As early as 816 the standardization of ecclesiastical foundations was attempted.⁴ The council of Aachen divided the clergy into

¹ Boretius, *Leges*, MGH, I, 163.

² For estimates of the extent of clerical wealth in the Carolingian epoch see Waitz, VII, 186; Inama-Sternegg, *DWG*, I, 291, and his *Grossgrundherrschaft*, 32; Lamprecht, *DWL*, I, 703; Sommerlad, *Die wirtschaftliche Tätigkeit der Kirche in Deutschland*, I, 301–16; Werminghoff, *Verfassungsgesch. der deutschen Kirche im Mittelalter*, sec. 8 and bibliography given there.

³ Boretius, I, 163, 277. The quotation is from Fisher, II, 64.

⁴ Mansi, *Concilia*, XIV, cols. 232–33; ordo canon. 818, c. 122. Cf. Abel-Simson, *Jahrb. Ludwigs d. Fr.*, I, 93; *Cart. de N-D. de Paris*, I, Introd., sec. 14. The genesis of these wonderful surveys of church property made in the ninth century and later certainly goes back as far as the time of Pepin the Short, who instituted such an inventory as a part of the partial restoration of the church's property which Karl Martel had seized for military use after 732. The best-known example is the famous *Polyptique* of the abbot Irminon, first edited by Guérard and later by Longnon (cf. Viollet, I, 366–67, 374–75). Other French examples are Piot, *Cartulaire de l'abbaye de St. Trond* (2 vols., 1870–75); Pirenne, *Polyptique et comptes de l'abbaye de St. Trond* (1896); Hansay, *Etude sur la formation et l'organisation économique du domaine de l'abbaye de St. Trond* (1899). The archbishop of Cambrai made a survey of the abbey of Lobbes in 868–69 (Parisot, 283, n. 1). The chief examples in Germany are the *Traditiones* of Corvei (Jaffé, *Monumenta Corb* [1886]; Wigand, *Gesch. von Corvey* [Höxter, 1819]), the *Traditiones Wizensurgenses* (Wolf, *Erwerbs und Verwaltung des Klostervermögens in der Trad. Wiz.* [Berlin diss., 1883]), and the *Register of the Lands of Prüm*, which may have been modeled upon a similar survey of Ferrières-Lamprecht, *DWL*, II, 84, n. 1. See Lamprecht's map in *ibid.*, II. There is a bibliography of German *cartulaires* by Oesterly, *Wegweiser durch die Literatur der Urkundensammlungen* (2 vols.). Charlemagne's well-known *Capitulary de Villis* is the best-known secular survey. On these polyptica in general see *Polyptique d'Irminon* (ed. Longnon),

three strata according to wealth. Those possessed of from 3,000 to 8,000 manors were classified as rich; those possessed of from 1,000 to 2,000 manors were classified as medium; those with only 200 to 300 manors were denominated poor. There were a few very wealthy bishoprics whose riches soared into five figures, and it is obvious that there must have been a considerable intermediate class between the first and the second group, and between the second and the third.

Even the terrible anarchy of the ninth century, owing to civil wars within and the invasions of the Norsemen from without, was turned to advantage by the church. What I have elsewhere written may be quoted here:

It is undeniable that the distress of the monasteries was frequently deliberately misrepresented in order to prevail upon the crown to enlarge their possessions. Hardship and misery the monks doubtless often endured, but it was a misery wholly relative. They suffered less than ordinary people and were amply compensated for their discomfort. Bourgeois has pointedly said that "the clergy with aid of false charters in general got more than they lost."¹

The complete separation of the eastern and western kingdoms, i.e., Germany and France, was reached in 870 at the partition of Meersen, and we may take this date as the point of departure for a study now of the proprietary interests of the German church, having cleared the ground for an understanding thereof in the preceding pages, in which the endeavor has been made to explain how the church and feudalism became so closely identified.

The German monasteries, like the Gallican, enjoyed to a high degree the liberality of popular piety. Not infrequently they were enormously endowed at the time of foundation. The nunnery of Gandersheim, the favorite foundation of the Liudolfinger, in the

II, 363 f.; *Polyptique de Saint Remy de Reims* (ed. Guérard), 93 f.; Coulanges, *L'alleu et le domaine rural*, chaps. i-iii; and Nitzsch, I, 255, 271, who makes an instructive comparison between the culture east and west of the Rhine. For the importance of these inventories of the wealth of the church in the treaties of partition in the ninth century, see Meyer von Knonau, *Ueber Nithards vier Buecher Geschichten. Der Bruderkrieg der Söhne Ludwigs d. Fr. und sein Geschichtschreiber* (Leipzig, 1866), 41, 106, n. 235; Richter, *Annalen*, I, 419-22; Mühlbacher, *Deutsche Gesch.*, I, 51.

¹ See my article on "The Commerce of France in the Ninth Century," *Journal of Political Economy* (November, 1915), 873-74.

bishopric of Hildesheim was started in 856 with an endowment of 11,000 manors¹; Hersfeld in the space of thirty years accumulated 2,000 large and small estates scattered in 195 different localities;² Tegernsee, in Bavaria, just prior to the secularization of Duke Arnulf [907-37] owned 11,866 manors; Benediktbeuren, which suffered the same fate, possessed 6,700.³ We have no record of the landed wealth of twenty-five other Bavarian monasteries whose enrichment dates from the Carolingian period. But at the termination of that epoch Fulda possessed 15,000 manors, Lorsch 2,000, St. Gall 4,000.⁴

Statistics of the extent of episcopal lands have not been preserved so fully as those pertaining to the monasteries. But there is ground to believe that the bishoprics were not as rich as the monasteries. The secular clergy did not appeal as interestingly to the imagination of men as the monks; perhaps the fact that church discipline was administered through the secular clergy, who also mingled more with the outside world, deprived the hierarchy of that bloom of romantic piety which the monks possessed in the eyes of the faithful.

The total number of recorded grants to bishoprics made by the Carolingian rulers in Germany between 814 and 911 amounts to

¹ Inama-Sternegg, I, 406.

² Hauck, III, 195.

³ Sommerlad, II, 38 f.

⁴ The Swiss monasteries were notoriously rich. The rapid growth of the landed wealth of the monasteries is well illustrated by St. Gall. The *Traditiones* show that before 700 it had not more than 50 *Hüfe*; in the eighth century the number rose to 110, in the ninth to 550; by the year 1000 it had about 4,000 manors. Nitzsch (I, 280) well says: "Die Zeit der ostfränkischen Karolinger ist die Zeit des Wachstums der kirchlichen Besitzungen. Der Güterbestand besonders der Klöster mehrte sich durch Schenkungen und Zinsübertragungen von Jahr zu Jahr." On the subject further see Waitz, V, 186; Sommerlad, II, c. 5; Lamprecht, *Deutsche Gesch.*, III, 59; Gerdes, I, 532-40; Roscher, *Ackerbau* (11th ed., 1885, of Stieda), sec. 105. Of course it is not possible to determine absolutely what area of land any monastery possessed, for the unit of measurement, the *mansus* or *Hufe*, was not a uniform area like an American "section."—(Guérard, *Polyptique d'Irminon*, 605; See, *Classes rurales*, 35-36). The same is also true of *Morgenland*. See my article on "East German Colonization," n. 36. Other figures are: Pruem (893), 2,000 *hubae*, 2,402 *Morgenland*; Mettlach, 305 *mansus*; St. Maximin, of Trier, 1284 *Morgenland*, 739 *hubae*; Werden an der Duhr (880), 22 "dominical" estates, 200 *hubae*, and 400 other pieces of land; Weissenberg, properties scattered in 300 localities.

149, viz., 24 by Louis the Pious, 49 by Ludwig the German, 15 by Charles the Fat, 37 by Arnulf (significant for so short a reign), and 12 by Louis the Child, the last of the house.¹ Of the eight bishoprics in Bavaria, Augsburg and Salzburg were the richest, the former having possessed 1,507 manors in 812, the latter 1,600 manors in the time of Duke Tassilo, who was deposed by Charlemagne in 788.² Freising was credited with estates scattered in 320 localities in the year 835.³ The archbishopric of Trier, in Lorraine, received ten square miles of land from Charlemagne shortly before his death.⁴

Naturally the enormous landed wealth possessed by the church excited the envy and cupidity of the great lay feudality, especially the powerful "stem" dukes, whose policy, with the dissolution of the Frankish empire in the middle of the ninth century, was to bring the bishoprics and monasteries within their duchies under their sway.⁵ With the increasing relaxation of royal authority in Germany after the death of Ludwig the German in 870, the dukes tended more and more to repudiate the Carolingian theory of ducal subordination to kingly authority which Charlemagne had so drastically exemplified in the humiliation of Tassilo of Bavaria, and to assert that they, quite as much as the king, ruled "by the grace of God."⁶

This rise of the great "stem" duchies in Germany in the ninth century is an important and interesting phenomenon. Violent as the measures often were which the dukes practiced toward the clergy in forcibly depriving them of their lands, nevertheless it would be an error to regard their course as merely one of wanton spoliation. Popular feeling in Germany in the ninth and tenth centuries was tribal, not national. The undeveloped and unapprehended popular self-consciousness functioned through the ancient German tribal organisms, of whose complex "personality," so to speak, the feudalized tribal dukes were the most visible and concrete embodiment.

The ducal policy toward the church within the separate duchies was, on a smaller scale, that of Charlemagne before them, namely,

¹ Hauck, III, 57.

² Rietzler, *Gesch. Bayerns*, I, 327; Inama-Sternegg, *Grossgrundherrschaften*, 32.

³ Sommerlad, II, 27.

⁵ Waitz, VII, 45.

⁴ Inama-Sternegg, *DWG*, I, 284.

⁶ Hauck, III, 8.

the attempt to affiliate or assimilate the administration and resources of the church with secular government. The feudality was not interested in questions of dogma and discipline, but was very much interested in the functioning of the church in government and society within its dukedoms. While the bishops were usually treated a little more leniently than were the abbots of the great monasteries, in general it was of slight moment to the duke whether the lands which they wished to appropriate were owned by a secular or a monastic corporation, so long as the upbuilding of a strong ducal government within their fiefs was to be furthered. As a consequence a double policy of forcible secularization of church lands and the enforcement of the right of advowson by the dukes upon the church within their duchies was general in Saxony, Bavaria, and Swabia.¹ In addition to these measures the dukes drastically thrust their "protection" as *vidames* or *avoues* upon terrorized bishops and abbots. Everywhere the dukes laid a heavy hand upon the church and attempted to impose their feudal authority on the bishops and abbots.²

The deposition of Charles the Fat and the accession of Arnulf of Bavaria to the German throne in 887 may be taken as the crucial point in this epoch. For that event, though it did not unseat the Carolingian dynasty, was nevertheless a political revolution. The German church, maddened by the tyranny and the exploitation of its lands by a baronage which had riotously pillaged it under the weak rule of Charles, in self-protection engineered the deposition of Charles the Fat and the enthronement of Arnulf.³ We get some

¹ Sommerlad, II, 226 f.; Dahn, IX, 518 f.; Hauck, III, 7; Stutz, *Beneficialwesen*, chaps. xx-xxi.

² Waitz, IV, 156 f.; 163, n. 2; Hauck, III, 8-9.

³ The dethronement of Charles the Fat was chiefly the work of Liutward, arch-chancellor of the empire, who had been driven from court in June, 887 (the deposition took place in November) by a combination of the great dukes against him, and fled to Arnulf, who already in 884-85 had unmasked his claims as a pretender. The contemporary chroniclers are singularly silent as to causes and motives, which, considering that all were clerics, of itself may be taken as evidence that clerical intrigue, whereof the writers are discreetly silent, was at the bottom of the movement. The conclusion expressed in the text is arrived at by a process of inverse reasoning from the evidence afforded by Arnulf's policy as king and the course of the church toward him. Waitz contends that technically it was not a deposition but an abdication by Charles in favor

measure of the church's apprehension in the action of the synod of Metz in the following May (888), which expressed fear of general secularization of the lands of the church within the several duchies and implored Arnulf for protection.¹

By virtue of the circumstances under which he became king, Arnulf was pledged to a pro-clerical policy. In return for the moral support and material backing of the church, whose vassals aided his arms, whose resources repleted the diminished revenues of the Carolingian house, Arnulf showered exemptions and immunities upon the bishops and abbots.² At the diet of Tribur in 895 the clergy were given precedence over the feudality.³ With Arnulf's reign began that intimate alliance between the German church and the German crown which reached a climax of partnership under Otto the Great and his successors.

When the last Carolingian king expired in 911 in the person of Louis the Child, Arnulf's son, the German church lost not a minute in establishing a new dynasty. The energetic Hatto, archbishop of Mainz, promptly put up Conrad of Franconia as king, with the backing of the church, perilous as the course was of choosing one duke in preference to another, and when the Babenbergers resented it, church and crown, united, together broke their power.⁴ But

of his rival, and strives to minimize the revolutionary nature of the event (*DVG*, V, 26, n. 2), yet on page 30 he admits the ascendancy of clerical influence in Arnulf's reign. It seems to me that, looking backward into the policy of the church in the time of Louis the Pious and Charles the Bald, and forward into its policy under Conrad I, especially as expressed at the synod of Hohenaltheim, we are justified in concluding that the church was the controlling factor in the change of ruler. For further literature see Gfrörer, *Gesch. der Ost- und Westfränkischen Karolinger*, II, 293; Dümmler, *Gesch. des Ostfränkischen Reiches*, III, 302 f.; Wenck, *Erhebung Arnulfs*, 22; Maurenbrecher, *Gesch. der deutschen Königswahlen*, 25 f.; Harttung, *Die Thronfolge im deutschen Reiche, in Forschungen zur deutschen Gesch.*, XVIII (1874), 134 f.; Phillips, "Beiträge zur Geschichte Deutschlands von Jahre 887 bis 956," in *Abhandlungen der III Classe der Akad. der Wissenschaften*, Band III, Abth. 2 (Vienna).

¹ Nitzsch, I, 286. He well says: "Ein neues System nationaler Königtümer war im Entstehen, dessen anerkannten politischen Mittelpunkt der ostfränkische Hof bildete" (p. 287).

² Dopsch, *Wirtschaftsgesch. der Karolingerzeit*, II, 328 f. Arnulf denominated himself "ecclesiae catholicae filius et defensor" after 892.

³ Nitzsch, I, 292. The clergy again expressed fear of spoliation (Regino, *Chron.*, 895).

⁴ *Ibid.*, I, 296; Hauck, III, 6-10; Lamprecht, *D.G.*, II, 115; Waitz, V, 61-63.

the danger of the church from feudal spoliation was not over. Henry, duke of Saxony, deprived Mainz of the lands situated within his duchy,¹ while in Swabia Bishop Salomon of Constance waged a long and bitter conflict with Duke Burchard,² and when the latter died continued the duel against his successor Erchanger.³ In Bavaria the whole episcopate, headed by Pilgrim of Salzburg, Tuto of Regensburg, and Drachalf of Freising, rallied around Conrad, when in July, 916, he invaded Bavaria against Duke Arnulf.⁴

The conflict between the church and the crown on the one hand and the feudal dukes on the other was furiously waged. In every duchy the bone of contention was the lands of the church which the dukes struggled to seize.⁵ In Saxony alone, where the duke was too rich and the church too poor to tempt feudal covetousness, the local clergy was friendly with the reigning feudal authority. At the synod of Hohenaltheim in 916, which was strongly imbued with pseudo-Isodorean ideas of clerical supremacy, and over which a papal legate presided, the bishops of all Germany, with the exception of those of Saxony who were restrained by Henry the Fowler from attending, boldly proclaimed their alliance with the crown.⁶ Erchanger of Swabia and Arnulf of Bavaria, who had revolted against Conrad, were condemned.⁷ The synod tripled the penalty of excommunication, declared the exemption of the clergy from secular courts, asserted the appellate supremacy of the papal curia, and demanded the restoration of the property of the church, which the dukes had seized and secularized, and the enforcement of the tithe.

It was not the fault of the bishops that Conrad's reign was not successful.⁸ Erchanger, it is true, suffered death, but Arnulf of

¹ Widukind, I, 21; Waitz, *Jahrbuch Heinr. I*, 20; Dümmler, *Ostfränk. Reich*, III, 585.

² *Annal. Allem.*, 911, SS. I, 55; Zeller, *Bischof Salomo III. von Konstanz, Abt von St. Gallen* (Tübingen diss., 1910).

³ *Annal. Atkm.*, 913-16; *Contin. Reg.*, 914-17; Hauck, III, 12.

⁴ *Dipl. I*, 27, No. 30; Nitzsch, I, 303.

⁵ Waitz, V, 62 f.

⁶ Hauck, III, 13; Nitzsch, I, 303. The Bavarian bishops braved the wrath of Duke Arnulf to come.

⁷ Hauck, III, 21.

⁸ Even Conrad I abused his popularity with the church in order to increase the family holdings (Hauck, III, 20; Waitz, VII, 134).

Bavaria was too strong in his position, and the Saxon clergy could not be lured away from Henry. Suddenly the whole program of the church collapsed with the death of Conrad on December 28, 918. The failure of Conrad's policy proved two things: first, that the feudal organization of Germany around the great dukes was too deeply rooted to be overthrown; the day had gone by when the crown could coerce the dukes as Charlemagne had broken Tassilo of Bavaria;¹ secondly, that the time was not yet ripe for the German church to exercise a dominant sway in political affairs.

Upon his deathbed Conrad seems to have had some intimation of this truth, in which the clergy, however reluctantly, appear also to have acquiesced. We cannot explain otherwise the dying king's action in sending the royal insignia to Henry of Saxony, and that of the archbishop of Mainz in inviting Henry, at Fritzlar, in May, 919, to become the defender of the church.² But Henry I was too wary to mortgage his freedom of action to the clergy, and with feigned humility, to the bitter chagrin of the bishops, refused to be consecrated.³

Henry I's feudal policy was to give simultaneous and due expression both to the general and the particularistic interests in Germany. The dukes were permitted to exercise their authority with almost sovereign independence within their duchies, administering justice, coining their own money, and in the case of the Bavarian duke even the right of nomination to bishoprics was abandoned to him.⁴ Almost as much latitude was given to Burchard of Swabia and Gilbert of Lorraine.⁵ Henry I's policy, in a word, was one of regulation, not suppression of feudalism.

¹ Popular feeling was tribal, not national (Thietmar, *Chron.*, II, 28). When Conrad I executed Adalbert of Babenberg much popular indignation was aroused (Regino, *anno* 906). The caliph Abd-er-Rahman told the envoys of Otto I that their sovereign made a mistake in permitting the German dukes so much liberty (*Vita Johan. Gorz.*, c. 136, *MGH*, SS. IV, 376). We see the same phenomenon in feudal France, where the duke of Gascony denominated his duchy as "regnum" (Pfister, *Robert le Pieux*, 228), and the duke of Aquitaine was styled "king" (Bouquet, XII, 451). Thietmar, VI, 30, described the duke of Burgundy as "miles est regis in nomine, et dominus in re."

² Waitz, *Jahrbuch Heinr.*, I, 40.

³ *Ibid.*, 75; Hauck, III, 20-21; Thietmar, *Chron.*, I, c. 5.

⁴ Thietmar, *Chron.*, I, c. 10; Rietzler, I, 329; Lamprecht, *D.G.*, II, 127; Hauck, III, 16-19; Waitz, *Jahrb.*, 52.

⁵ Lamprecht, *D.G.*, II, 127.

Only in the last years of his reign did Henry I relax his suspicion of the church. He was not liberal in grants to it.¹ After 933, when his reforms were well established and his power secure, and perhaps not a little influenced by the piety of his wife Matilda,² his ecclesiastical policy became more affable; he even began to abridge the control of the great dukes over the church within their fiefs.³ But as a whole church politics were at a standstill during Henry I's reign.⁴ Yet beyond any doubt Henry I in the last years of his life saw clearly that what had been a policy of wisdom at first could not be wisely adhered to permanently. In feudal Germany the permanent estrangement of church and state was as impolitic as it was impracticable.

This Otto I perceived and symbolically enunciated both his ecclesiastical and feudal (or rather anti-feudal) program in the solemn coronation in Aachen cathedral.⁵ Otto cared little for the religious significance of the episcopate, but he was in earnest about its political importance.⁶ It was clear in his mind that the German

¹ Sommerlad, II, 232 f.; Nitzsch, I, 330-32.

² On this earliest movement of German pietism see Sybel's *Hist. Zeitschrift*, XLV, 25; Lamprecht, "Das deutsche Geistesleben unter den Ottonen," *Zeitschrift für Geschichtswissenschaft*, VIII, Part 1, p. 1; Heineken, *Die Anfänge der sächsischen Frauenklöster* (Göttingen diss., 1909); Harnack, *History of Dogma*, VI, 3, note.

³ Lamprecht, *D.G.*, II, 132-33; Nitzsch, I, 324-25.

⁴ Hauck, III, 68; Nitzsch, I, 329-32: "Heinrich I erkannte am Ende seiner Regierung die Bedeutung an, welche die kirchliche Organisation noch immer für das deutsche Leben hatte."

⁵ Bryce's exposition of the significance of this ceremony is classic. See *Holy Roman Empire*, chap. viii, 2d ed. The church and the imperialistic ideal of Otto were more easily reconciled than the *imperium* and the ideas of feudal sovereignty of the stem-dukes. The issue between crown sovereignty and feudal state-rights was irreconcilable, as the great struggle of Frederick Barbarossa and Henry the Lion showed in the twelfth century. The absence of the principle of heredity in church offices afforded the crown a powerful means of control of the church which was not applicable to the duchies. Otto finally brought the dukes to acknowledge his authority, but they were always actuated by local and tribal traditions from which the clergy were much more free.

⁶ Cf. Hauck, III, 1-19, and notes. In the struggle between two rival candidates at Liège Otto compelled the archbishop of Cologne to consecrate the candidate whom he preferred. Bishop Hugo of Verdun was driven from his see for opposing the king, and Benim put in his stead. Political "availability" was the determining factor in the choice of a German bishop.

church would have to comply with his will. The German church was on the horns of a dilemma, and Otto perceived it—either to continue to be buffeted and abused by the violence of the dukes and to suffer continual spoliation of its lands,¹ or to purchase peace and protection from the Saxon house at the price of surrendering its independence and renouncing those vague ideas of supremacy which it had cherished since the ninth century. Save for a few irreconcilables like Frederick of Mainz,² the German bishops as a whole espoused the king and threw their moral influence and their material resources into the scale with the crown against the feudal dukes. The bishops and abbots not only put at Otto's service their authority and their administrative experience, but their wealth and their church vassals also.

This alliance between the German crown and the German church broke the power of the great German dukes. Otto I disposed of church offices more with an eye to the political bearing of the appointment than with any sentiment for its religious character. He deposed the recalcitrant archbishop of Mainz and gave the see to his natural brother William; he made his brother Bruno at one and the same time archbishop of Cologne

¹ Yet, strong as Otto I was, the enormous wealth of the German church still tempted some of the great dukes in his reign to brave the might of the king. Henry of Bavaria blinded and banished the bishop of Salzberg and castrated the patriarch of Aquileia and divided the episcopal estates among his vassals (Jaffé, III, 358; Waitz, VII, 204). Liudolf of Swabia seized the lands of the bishop of Augsburg (Vita Oudal., chap. xxx; *MGH*, SS. IV, 399). The Lorrainer dukes Gilbert and Conrad often plundered the estates of the archbishop of Trier. The frequency with which such acts are mentioned implies the wide prevalence of the practice. The bishops of Bremen, Metz, Liège, Hildesheim, Münster, Paderborn, and Cologne complain time and time again of the greed of their feudal neighbors for their lands (Waitz, VII, 206, and notes; cf. VI, 79 f.). The bishops were much more liable to be involved in this strife with the feudality than the abbots, chiefly because of their greater political ambition and intriguing, and practiced the same violence of which they accused their enemies. They maintained armed bands of bravos for defense or offense as the case might be. Many were the bishops who *praedia multa ecclesiastica pro auxilio distribuit decennium* (quoted in Waitz, VII, 206, n. 1). The anathemas of the church were ineffectual in a land where the high clergy were grossly guilty of the very practices which they reprobated (for examples of anathemas see *Forsch. z. Deutsch. Gesch.*, XIII, 497; Lesne, 413-23. The sources abound: see citations in Gerdes, I, 536, notes.

² For the opposition of the German clergy to Otto I's measures, see Hauck, III, 33-34.

and duke of Lorraine; he made his cousin Henry archbishop of Trier.¹ The German church, so far as the king was concerned, was an instrument of government. There are no examples of German synods in Saxon and Franconian times discussing the general welfare of the church.² There are no Saxon capitularies like those emanating from Charlemagne, Louis the Pious, or even Charles the Bald.³

Otto I introduced no new principle when he so elevated the church to such a high place in his government, but he enormously magnified the practice of his predecessors. Theoretically the canonical right of episcopal election still continued. But irregularities of the nature of royal designation were so frequent that the rule was far more honored in the breach than in the observance.⁴ The chief principle which prevailed with the king was the politico-economic importance of the office to be filled, and the "availability" of the candidate. Expediency was superior to canonicity. The interests of the crown were the decisive factor. Thietmar, of Merseburg, the chief historian of the Saxon epoch, depicts the bishops as royal and loyal officials.⁵ The feudal ideal was complete. Otto was head of state and (secular) head of the church too. Dogma and discipline were left to the church, but not government, even of itself.

Since the defeudalization of the church in Europe, owing to the influence of the French Revolution and especially in Germany through the sweeping changes wrought by Napoleon, it requires an effort of the historical imagination and a large and intimate knowledge of the nature and operation of the feudal régime in the Middle Ages in order to understand how and why the church could

¹ Hauck, III, 31; Lamprecht, *D.G.*, II, 153.

² *Ibid.*, III, 67; Lamprecht, *D.G.*, II, 155-56.

³ *Ibid.*, III, 67 and 230; cf. Fisher, I, c. 4.

⁴ For a list of episcopal appointments by the German crown see Hinschius, *Kirchenrecht*, II, 530, n. 9.

⁵ *Chron.*, I, 15; Lambert, of Hersfeld, *Annales* (1071, ed. Holder-Egger), 132-33, has a famous tirade against these "political" churchmen of the Franconian period. The Saxon episcopate has been studied in Hinschius, II, 530-37; Hauck, III, 395-403; Gerdes, I, 566-72; Koeniger, Part II, c. 2.

become so identified with secular government, and how Otto I was able to make so large use of it.

The key to the matter is to be found in the proprietary nature of the mediaeval church, i.e., the temporal power of bishops and abbots. For at the same time these ecclesiastics were churchmen and feudal chieftains. They pertained both to the spiritual and to the feudal hierarchy. The problem was to reconcile the dual functions and obligations of bishops and abbots, and to give simultaneous and due expression to both their spiritual and their temporal duties. In practice it was impossible "to split even." Instead of the fief being regarded as the accessory of the bishopric or abbey, the bishopric or abbey became the accessory of the fief. The state applied to church lands exactly the same rules and regulations which it enforced in the case of lay lands. Clerical election, when it obtained at all, was a mere formality; in many cases ecclesiastical election wholly disappeared.¹

The king lived, in no inconsiderable degree, upon the revenues of the church² and fought his wars in large part with church vassals. To limit the power of the crown over church lands was both to diminish the royal authority and to sequester important and necessary revenues. Otto I's theory of control of the German church was that of Charlemagne before him. The difference was one of degree only. The crown's ecclesiastical authority conveyed in the term *regale*, as said before, was not so reduced as its secular authority. Considerable remnants of former Carolingian prerogative still survived in the great duchies, being least in Bavaria,³ and thus gave the crown a *point d'appui* in the very heart of the duchies. This authority was more complete in the case of the monasteries than in the case of the bishoprics.

Monasteries, from the inception of the movement, were private foundations, and of all founders of monasteries the Merovingian kings and the Austrasian mayors had been the greatest. These

¹ See Erich Laehns, *Die Bischofswahlen in Deutschland von 936-1056*, Greifswald, 1909.

² "Alles Reichskirchengut stand im Eigentum des Reiches."—Richter, *Annalen*, III, Part 2, p. 768; cf. Ficker, *loc. cit.*, 35 (87 f.).

³ Giesebrecht, *Kaiserzeit*, I, 227. For details, Waitz, VII, 138 f.

the Carolingian kings inherited and increased, so that an imposing array of cloisters was within the control of the Frankish crown. Free election disappeared in the abbeys under Charlemagne, who ecclesiastically supervised them through the bishops¹ and assimilated the administration of the monastery lands to that of the fisc in virtue of the "protection" vouchsafed by the crown to them;² *Krongut*, *Hausgut*, and *Klostergut* were all one in the Carolingian system.³

In consequence, despite the fact that during the ninth century the feudality usurped control of many foundations and plundered the crown of its revenues thereby,⁴ nevertheless the Saxon house was possessed of many monasteries throughout Germany, although Otto I complained of the spoliation of them under his predecessors and of their reduced number.⁵

With these "royal" abbeys must also be included the new bishoprics like Magdeburg, Brandenburg, Zeitz, Meissen, etc., established during the Saxon epoch in the colonial lands east of the Elbe and Saale rivers, as the Wendish territory was conquered and settled by the German people.⁶ By the end of the Saxon period the complete sway of the royal prerogative over all bishoprics and abbeys, save a few of the latter which still remained in private hands by virtue of ancient tradition, was accomplished.

This rapid extension of crown authority over the German church was materially facilitated by the peculiarly concrete conceptions of law which prevailed. It took the mediaeval, and especially the Teutonic, mind a long time to grasp the highly complex notion of a corporation. The modern legal conception of a juridical personality or of a corporation did not exist. Feudalism was an extremely personal régime. Law had to possess concrete, physical embodiment. Abstract legal conceptions did not prevail and would not have been understood. Accordingly it was universally held that

¹ Waitz, III, 433.

² *Ibid.*, III, 155, 158-60.

³ *Ibid.*, III, 140; IV, 154-60, 164. For the wealth of the monasteries under Otto I see Sommerlad, II, 39.

⁴ Waitz, IV, 156, 160, n. 2.

⁵ *Ibid.*, VII, 209, n. 4; Koeniger, 101, n. 3.

⁶ *Ibid.*, IV, 157, 168, n. 4.

every bishopric and every monastery had to have a physical overlord.¹ In the case of small churches the patron was the local landed proprietor who had founded it, or whose father had founded it, and who controlled it. In the case of monasteries the overlord was the founder. But most of the great German monasteries had been founded by royal initiative and royal endowment, and the same was true, as has been said, of the new bishoprics in the conquered lands.² As the king lived in considerable part upon the resources derived from the church lands, especially the abbey lands, to limit the exercise of royal authority over these lands, or to permit them to be enfeoffed without royal consent, would not only have diminished the political power of the crown, but also have sequestered important revenues.³

¹ "Der Begriff der Kirche als einer juristischen Person war den Germanen fremd. Die kirchlichen Gebäude gehörten dem Herrn des Bodens, auf dem sie standen und wurden von Diesem den Geistlichen zur Benutzung eingeräumt." Richter, *Annalen*, III, Part 2, p. 768; cf. Ficker, 12 (64); Hinschius, II, 622; Gierke, *Deutsches Genossenschaft*, and Pollock and Maitland, *History of English Law*, I, 469-95.

² For these Slavonic bishoprics see my article on "The German Church and Conversion of Baltic Slavs," in *Amer. Jour. Theol.*, April and July, 1916.

³ Henry II, as was his way, sensibly and pithily expressed the crown's position in this matter of secular control of church property: "Oportet ut in ecclesiis multae sint facultates . . . quia cui plus committitur, plus ab eo exigitur. Multa enim debet (Fulda) dare servitia et romanae et regali curiae propetr quod scriptum est: Reddite quae sunt Caesaris Caesari et quae sunt Dei Deo." The way in which Abelard made the point is classic: see Bouquet, XIV, 290.